

Environmental Protection Agency

§ 35.910-2

(i) The facilities have not met design performance specifications (unless such failure is due to any person's negligence);

(ii) Correction of the failure requires significantly increased capital or operating and maintenance expenditures; and

(iii) Such failure has occurred within the 2-year period following final inspection; and

(2) The replacement or modification project is on the fundable portion of the State's priority list.

(d) *Sole source procurement.* A determination by the Regional Administrator under this section that innovative criteria have been met will serve as the basis for sole source procurement (see § 35.936-13(b)) for step 3, if appropriate, to achieve the objective of demonstrating innovative technology.

§ 35.909 Step 2+3 grants.

(a) *Authority.* The Regional Administrator may award grant assistance for a step 2+3 project for the combination of design (step 2) and construction (step 3) of a waste water treatment works.

(b) *Limitations.* The Regional Administrator may award step 2+3 grant assistance only if he determines that:

(1) The population is 25,000 or less for the applicant municipality (according to most recent U.S. Census information or disaggregations thereof);

(2) The treatment works has an estimated total step 3 construction cost of \$2 million or less, as determined by the Regional Administrator. For any State that the Assistant Administrator for Water and Waste Management finds to have unusually high costs of construction, the Regional Administrator may make step 2+3 awards where the estimated total step 3 construction costs of such treatment works does not exceed \$3 million. The project must consist of all associated step 2 and step 3 work; segmenting is not permitted; and

(3) The fundable range of the approved project priority list includes the step 2 and step 3 work.

(c) *Application requirements.* Step 2+3 projects are subject to all requirements of this subpart that apply to separate step 2 and step 3 projects except compliance with § 35.920-3(c) is not required

before grant award. An applicant should only submit a single application.

(d) *Cross references.* See §§ 35.920-3(d) (contents of application), 35.930-1(a)(4) (types of projects) and 35.935-4 (grant conditions).

§ 35.910 Allocation of funds.

§ 35.910-1 Allotments.

Allotments are made on a formula or other basis which Congress specifies for each fiscal year. Except where Congress indicates the exact amount of funds which each State should receive, computation of a State's ratio will be carried out to the nearest ten-thousandth percent (0.0001 percent). Unless regulations for allotments for a specific fiscal year otherwise specify, allotted amounts will be rounded to the nearest thousand dollars.

§ 35.910-2 Period of availability; reallocation.

(a) All sums allotted under § 35.910-5 shall remain available for obligation within that State until September 30, 1978. Such funds which remain unobligated on October 1, 1978, will be immediately reallocated in the same manner as sums under paragraph (b) of this section.

(b) All other sums allotted to a State under section 207 of the Act shall remain available for obligation until the end of 1 year after the close of the fiscal year for which the sums were authorized. Sums not obligated at the end of that period shall be immediately reallocated on the basis of the same ratio as applicable to sums allotted for the then-current fiscal year, but none of the funds reallocated shall be made available to any State which failed to obligate any of the funds being reallocated. Any sum made available to a State by reallocation under this section shall be in addition to any funds otherwise allotted to such State for grants under this subpart during any fiscal year.

(c) Sums which are deobligated after the reallocation date for those funds shall be treated in the same manner as the most recent allotment before the deobligation.